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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,092	08/29/2003	Joseph M. Perron	PERRON-1	7733
32132	7590	07/30/2004	EXAMINER	
LAMORTE & ASSOCIATES P.C. P.O. BOX 434 YARDLEY, PA 19067			LAYNO, BENJAMIN	
			ART UNIT	PAPER NUMBER
			3712	

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

YW

Office Action Summary	Application No. 10/651,092	Applicant(s) PERRON, JOSEPH M.	
	Examiner Benjamin H. Layno	Art Unit 3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 8 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Tourville et al.

The patent tot Tourville et al. discloses a board game comprising a plurality of areas, and a plurality of spaces that extend throughout the plurality of areas. The plurality of areas include a first area of play, the inside board, Figs. 1-4 consisting of **at least** sixty-four playing spaces arranged in **at least** eight columns and **at least** eight rows which extend through all of the plurality of areas, col. 3, lines 15-19. The plurality of areas also includes a second area of play, the outside board, Figs. 1-4. The second area of play having fifty-six playing spaces 1-56. The second area of play is larger than the first area of play, and the first area of play is contained within the second area of play, see col. 1, lines 47-68 and col. 2, lines 55-68. Some of the play spaces are control spaces, 20, 48 “Earth Casino”, 4 “Time Warp”, etc., see col. 1, lines 54-66 and col. 4, lines 29-68. Tourville’s board game further comprises a set of game pieces, “ship markers”, one set for at least two players. The game pieces are maneuvered along the first area, and the game pieces are used for attacking opposing game pieces, col. 6, lines 5-54. Thus,

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these game pieces may be called chess game pieces. Placement cards, "Quazi cards", for identifying where players should place the chess game pieces, col. 5, lines 1-11.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tourville et al. as applied to claim 8 above, and further in view of Temple.

In Tourville's game when a player purchases a property, the player receives an ownership marker "pentagons", col. 2, line 24. Temple teaches that it is known in financial transaction board games where players purchase property, to provide ownership cards 28. In view of such teaching, it would be obvious to replace Tourville's ownership markers with ownership cards in order to more clearly indicate the property owned by the players.

5. Claims 1-7 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Nolte.

The patent to Nolte discloses a method of playing a board game comprising a game board having rows and columns of square spaces, Fig. 1 and 4, and at least two players with a set of chess game pieces 20-23, Fig. 2. The game board comprises a central region 10, and a plurality of different areas 11-18. To play Nolte's game, a game that is not chess is played, col. 5, line 50 to col. 7, line 72, see Figs. 10, 10A, 11A-11G.

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Players attempt to control a majority of the plurality of different areas with the chess pieces. These games may be called different types of chess games. Thus, when a predetermined circumstance occurs, for instance, when a first game ends, another game or a different type of chess game may be played. These games include four-player game, a six-player game and an eight-player game, wherein player are eliminated from the game, col. 2, line 67 to col. 3, line 11.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nolte as applied to claim 14 above, and further in view of Cornelson et al.

The patent to Cornelson discloses a strategy type board game comprising placement cards. The placement cards 34 inform players of where to set their playing pieces on the game board, col. 4, lines 59-61 and col. 7, lines 37-57. In view of such teaching, it would have been obvious to incorporate placement cards to Nolte's game in order to make the game more chance oriented and therefore more exciting to play.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nolte as applied to claim 14 above, and further in view of Wilkins.

The patent to Wilkins teaches that it is known in the chess game art to provide control spaces 18-21 wherein players control one of the plurality of areas by positioning a chess piece on a majority of the control spaces. In view of such teaching, it would have been obvious to incorporate control spaces to Nolte's game board. This modification would have made Nolte's game more challenging to play.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-7 and 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 14, the recitations "a first game that is not chess" and "playing chess" are indefinite. There are different type of chess games see references cited and see www.chessvariants.com which lists several hundred different types of chess games. The term "chess" must be more clearly defined.

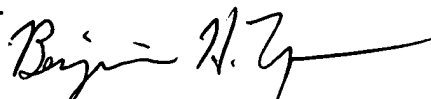
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Mathews discloses a different type of chess game. The patents to Lakin and Bolan disclose strategy type board games having an outer space theme.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3712

bhl